IN THE HIGH COURT OF JUDICAUTRE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

(8) **WRIT PETITION NO. 2085 OF 2005**

M/s. Colaba Central Co-op. Consumers
Wholesale and Retail Stores Ltd. ... Petitioner

Versus

Shri. Mukund Gajanan Yewle and anr.. Respondents

WITH

(9) WRIT PETITION NO. 2086 OF 2005

M/s. Colaba Central Co-op. Consumers
Wholesale and Retail Stores Ltd. ... Petitioner

Versus

Shri. Nabilal Isak Inamdar
and anr. ... Respondents

Mr. R.S. Pai i/bySanjay Udeshi & Co. for
Petitioner.

Mr. N.M. Ganguli for R. No. 1.

CORAM : F.I. REBELLO,J.
DATED : AUGUST 17, 2005

P.C.

. The Petitioners in both these petitions challenges the order of the learned Industrial Court dated 23.12.2004 whereby the Industrial Court has been pleased to condone delay in respondents in two petitioners filing complaint under the provisions of the M.R.T.U. & P.U.L.P. Act. On behalf of the Petitioners, their learned counsel submits that the reasons given by the learned

Industrial Court in Paragraph 7 for holding that there is sufficient cause, discloses error apparent as there has been long delay after the order of promotion and secondly on the facts available, the cause shown would not amount to sufficient cause as also there being delay of nearly two years and all the promotees have already joined the posts to which they were promoted.

. The test as now enumerated by the Apex Court is whether the respondents have been prosecuting the matter with due diligence. In the instant case, the respondents are workman who by letters dated 9.5.2003, 17.2.2004 and 4.2.2004 have protested their non selection. Considering that the respondent workman were in correspondence with the management, the learned Industrial Court thought it fit to exercise its discretion in favour of the workman and condone the delay. It cannot be said that the exercise of the said discretion is based on no material. Once there was material and the Industrial Court exercised discretion, it is not for this court in the exercise of extra ordinary jurisdiction to interfere with the exercise of discretion. This is not a case where there was no material or there was insufficient cause. In the light of that, no interference is called for. Both

the Petitions are rejected.

(F.I. REBELLO,J.)